

EXHIBIT E

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

JEAN LIN,)
)
)
Plaintiff,)
)
vs.) CASE NO.: 1:07-CV-03218 (RJH)
)
)
METROPOLITAN LIFE)
INSURANCE COMPANY,)
)
)
Defendants.)

DEPOSITION OF : DR. SAM KAM
TAKEN BY : TOMASITA SHERER, ESQUIRE
Commencing : 8:47 A.M.
Location : 1051 PARK VIEW DRIVE
COVINA, CALIFORNIA 91723
Day, Date : TUESDAY, FEBRUARY 19, 2008
Reported by : MARGARET A. FORD, C.S.R. NO. 10530
Pursuant to : Notice
Original to : TOMASITA SHERER, ESQUIRE

Pages 1 - 103
Job No. 109648

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APPEARANCES OF COUNSEL

FOR THE PLAINTIFF: LAW OFFICE OF TRIEF & OLK
150 E 58TH STREET
NEW YORK, NEW YORK 10155
201/343-5770
BY: TED TRIEF, ESQ.
BY: ERIC DINNOCENZO, ESQ.

FOR THE DEFENDANT METLIFE:

1 METLIFE PLAZA
27-01 QUEENS PLAZA NORTH
LONG ISLAND CITY, NY 11101
212/578-3102
BY: TOMASITA SHERER, ESQ.

FOR THE DEFENDANT JOHN HANCOCK:

LAW OFFICE OF ECKERT & SEAMANS
ONE INTERNATIONAL PLACE
18TH FLOOR
BOSTON, MA 02110
617/342-6863
BY: EDWARD S. ROONEY, JR., ESQ.

ALSO PRESENT: JEAN LIN

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COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

JEAN LIN,)
)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO.: 07-2190-B
)

JOHN HANCOCK LIFE)
INSURANCE COMPANY,)

Defendant.)

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EXHIBITS

DEFENDANT'S EXHIBIT NO.	DESCRIPTION	MARKED FOR IDENTIFICATION
A	DR. KAM'S CV	07
B	8/7/04 NOTES	11
C	AUGUST 13, 2004 LABS	11
D	ABDOMINAL ULTRASOUND	24
E	CUSTODIAN'S CERTIFICATION	70
F	LAB REPORT	72
G	DR. KAM'S CHART	83

INFORMATION REQUESTED

(None)

QUESTIONS NOT ANSWERED

(None)

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<p>1 results we've discussed?</p> <p>2 MR. TRIEF: Objection.</p> <p>3 THE WITNESS: Okay. I agree with whatever</p> <p>4 written here (indicating).</p> <p>5 Q BY MS. SHERER: Okay. Did Mr. Lin have chronic</p> <p>6 Hepatitis B?</p> <p>7 A It depend on how you define chronic Hepatitis</p> <p>8 B, okay? If your definition of Mr. Lin has a positive</p> <p>9 surface antigen, and then you classify that as chronic</p> <p>10 Hepatitis B, yes.</p> <p>11 Q Would you classify him as having chronic</p> <p>12 Hepatitis B?</p> <p>13 A I will. My definition is what anyone with</p> <p>14 surface antigen positive is chronic Hepatitis B.</p> <p>15 Q Would you agree with the statement that whether</p> <p>16 Mr. Lin tested active or inactive he still had Hepatitis</p> <p>17 B Virus?</p> <p>18 A The only statement I would agree to is Mr. Lin</p> <p>19 has, after treatment by Interferon in 1998, his Hepatitis</p> <p>20 B changed from an active stage into an inactive stage.</p> <p>21 Q And he was still a Hepatitis B --</p> <p>22 A He is still a Hepatitis B carrier.</p> <p>23 Q Does at that mean he still had the virus?</p> <p>24 A He still has the virus.</p> <p>25 Q Was the virus cleared from his system?</p> <p style="text-align: right;">Page 89</p>	<p>1 A I'm pretty sure, I would be 99 percent sure</p> <p>2 that's what I'm telling my patient.</p> <p>3 Q And do you recall when you said that?</p> <p>4 A That is after -- if I say it it will be after I</p> <p>5 knock off the E Antigen, okay? When the blood tests come</p> <p>6 back, I will tell the patient, okay, I mean, your</p> <p>7 Hepatitis virus now become inactive, okay? You do not</p> <p>8 need any further treatment. Because I have to tell</p> <p>9 patient why I have to stop the treatment, okay? I mean,</p> <p>10 you don't need anymore treatment. It's inactive now.</p> <p>11 But you still carry the virus. It might -- it maybe</p> <p>12 activate in the future, and you have to come back and see</p> <p>13 me.</p> <p>14 Q And the entire time Mr. Lin was seen by you he</p> <p>15 carried the virus, correct?</p> <p>16 A Yes.</p> <p>17 MS. SHERER: I have no more questions. Thank</p> <p>18 you very much.</p> <p>19 EXAMINATION</p> <p>20 Q BY MR. ROONEY: Let me followup. Doctor, my</p> <p>21 name is Ed Rooney. I represent John Hancock Life</p> <p>22 Insurance Company, and I have a few followup questions.</p> <p>23 First of all, thank you very much for your time and your</p> <p>24 patience in going through your notes. You were just</p> <p>25 describing what you would have told Mr. Lin, that you</p> <p style="text-align: right;">Page 91</p>
<p>1 A The virus was cleared from the blood, but was</p> <p>2 still sitting in the liver cell.</p> <p>3 Q Did you ever inform Ms. Lin that the virus had</p> <p>4 cleared from his system?</p> <p>5 A Okay. You are asking something which go back</p> <p>6 to 1998, ten years ago, okay? Ten years ago, no one can</p> <p>7 tell you what they talk about, okay? This is</p> <p>8 unreasonable, I mean, question that you asked me. Did I</p> <p>9 tell him something, I mean, that happened ten years ago.</p> <p>10 But, as a doctor, when I treat the patient, after</p> <p>11 treatment, the patient will naturally ask you, what</p> <p>12 happened to my treatment, all right?</p> <p>13 Everybody will ask questions. What will the</p> <p>14 doctor say? I have to tell them the result of the</p> <p>15 treatment, okay? What is the result of the treatment</p> <p>16 that I would tell my patient under this situation is</p> <p>17 that, okay, your Hepatitis B now is cured. Usually I</p> <p>18 don't go into E Positive or E Negative, patient never</p> <p>19 understand, okay?</p> <p>20 So it's very simple. Your Hepatitis B now is</p> <p>21 cured, it's inactive. You still have the virus, okay,</p> <p>22 it's not active but you need to be followed up every</p> <p>23 three to six months. It may activate in the future.</p> <p>24 That's --</p> <p>25 Q Is that what you told Mr. Lin?</p> <p style="text-align: right;">Page 90</p>	<p>1 were 99 percent sure of that.</p> <p>2 With respect to bringing you to 2005, would his</p> <p>3 treatment -- not his treatment, but his monitoring have</p> <p>4 continued into 2006, and, therefore, forward, of course</p> <p>5 having not passed away, would you have continued to have</p> <p>6 monitored him?</p> <p>7 A I would continue to monitor. For this kind of</p> <p>8 patient, we monitor them for life.</p> <p>9 Q You said earlier, and I think you've said</p> <p>10 throughout here, what you're monitoring for is to see if</p> <p>11 there's any cirrhosis of the liver, that's what you're</p> <p>12 looking for, correct?</p> <p>13 A You don't need to monitor cirrhosis of the</p> <p>14 liver if the patient's state is in inactive stage. What</p> <p>15 you're monitoring is whether this is going to reactivate.</p> <p>16 Q And if it reactivates?</p> <p>17 A Then you start treatment.</p> <p>18 Q And the treatment is designed to prevent --</p> <p>19 A Activation.</p> <p>20 Q -- activation and, ultimately, scarring of the</p> <p>21 liver?</p> <p>22 A The treatment that we have in 2005, if the</p> <p>23 patient become reactivate in 2005 or in the future, we</p> <p>24 have oral medicine that we know will be effective in</p> <p>25 suppressing the virus from an active back into inactive</p> <p style="text-align: right;">Page 92</p>

<p>1 stage.</p> <p>2 Q I think I understand that. What I'm trying to</p> <p>3 find out is what's the ultimate danger you're treating</p> <p>4 him for, cirrhosis of the liver?</p> <p>5 A Ultimate danger?</p> <p>6 Q Yes. Why are you continuing to treat him?</p> <p>7 What is the danger to his health?</p> <p>8 A To prevent activation and prevent cirrhosis.</p> <p>9 Q Okay. Is there also a danger of carcinoma of</p> <p>10 the liver as a result of the Hepatitis B Virus?</p> <p>11 A As a result of the Hepatitis B Virus infection,</p> <p>12 there is a slightly higher chance of carcinoma of the</p> <p>13 liver, okay, in compared to the regular population</p> <p>14 without the Hepatitis B Surface Antigen Positive.</p> <p>15 Q Did you ever -- do you remember Bang Lin? Do</p> <p>16 you remember what he looks like?</p> <p>17 A Hard to describe him. He looks like he's</p> <p>18 skinny, okay?</p> <p>19 Q I know you have a lot of patients. I'm just</p> <p>20 curious having treated him for eight years.</p> <p>21 A He's young. He's skinny, okay? He's my height</p> <p>22 or a little shorter than me, skin color was a little</p> <p>23 dark.</p> <p>24 Q And you've gone through all of your visits with</p> <p>25 him, could you describe for me what happens when he would</p> <p style="text-align: right;">Page 93</p>	<p>1 A As a report.</p> <p>2 Q And I notice that you would, I think almost</p> <p>3 every report, every laboratory report, you had a copy</p> <p>4 sent to Mr. Lin?</p> <p>5 A Not really. The reason why I sent to patient</p> <p>6 was because I don't expect them to come back in a short</p> <p>7 period of time. For example, I told them come back in</p> <p>8 six months, all right? The patient will know after this</p> <p>9 blood test what happened to him. So I sent him the</p> <p>10 report. Sometimes I wrote the comments and wrote the</p> <p>11 instruction there, I want to come back, you know?</p> <p>12 I don't think patient will want to wait six</p> <p>13 months to know the result of the blood test that they got</p> <p>14 before. So that would cut down the visit of the patient.</p> <p>15 Q I noticed on a lot of lab reports you circled</p> <p>16 certain things positive or certain abnormal readings,</p> <p>17 would you do that before you sent the report to Mr. Lin?</p> <p>18 A Yes. I usually review all of the reports when</p> <p>19 they come back from the lab.</p> <p>20 Q I think you said you didn't get into a</p> <p>21 discussion of E Antigen Positive or E Antigen Negative?</p> <p>22 A No one understand this.</p> <p>23 Q What's that?</p> <p>24 A No one will understand this. You do not</p> <p>25 discuss this with the patient. All you tell them, you</p> <p style="text-align: right;">Page 95</p>
<p>1 come to visit? You have your notes, would you ask him</p> <p>2 how are you feeling?</p> <p>3 A Well, we usually ask the patient how they feel,</p> <p>4 okay? Any symptoms of activation like fatigue? Any</p> <p>5 discomfort anywhere?</p> <p>6 Q And if there's nothing in your notes talking</p> <p>7 about a current complaint, then, presumably, he had no</p> <p>8 complaints --</p> <p>9 A Yes.</p> <p>10 Q -- at that point in time?</p> <p>11 A Yes.</p> <p>12 Q One of your last notes in November of '05, I</p> <p>13 think, he was complaining about stomach distress?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 A Yes. That was something new, okay? He never</p> <p>17 complained before.</p> <p>18 Q Okay. You would visit with him and then would</p> <p>19 he give -- would the blood sample be taken at your office</p> <p>20 or did he go to a lab, do you recall?</p> <p>21 A We drew the blood sample at our office, and we</p> <p>22 send it out to the lab for testing.</p> <p>23 Q Then it comes back?</p> <p>24 A As a report.</p> <p>25 Q To you?</p> <p style="text-align: right;">Page 94</p>	<p>1 have to tell them the result, okay, your liver test</p> <p>2 normal, your DNA is negative, okay, your E Antigen was</p> <p>3 negative, I mean, you are in a recession state, okay, but</p> <p>4 you need followup, you still have the virus.</p> <p>5 Q Okay. Did you ever meet Mrs. Lin?</p> <p>6 A Maybe. Maybe she accompanied the patient to</p> <p>7 come to my clinic sometime.</p> <p>8 Q But, I mean, do you have a clear memory of that</p> <p>9 or do you think maybe -- she's sitting here.</p> <p>10 A I'm pretty sure she was with the patient.</p> <p>11 Q I'm sorry. Say that again.</p> <p>12 A I'm pretty sure, I'm positive that she was with</p> <p>13 the patient several times.</p> <p>14 Q Would she be in the examination room with</p> <p>15 Mr. Lin?</p> <p>16 A She was in the examination room.</p> <p>17 Q And privy to the conversation you had with</p> <p>18 Mr. Lin?</p> <p>19 A Yes.</p> <p>20 Q And you say several times, over the course of</p> <p>21 the seven years or so?</p> <p>22 A I cannot remember how many times, okay? But</p> <p>23 for those, which, like, five years ago, ten years ago, I</p> <p>24 don't remember. But for the -- lately, for the endoscopy</p> <p>25 and endoscopy report, those things I remember she was</p> <p style="text-align: right;">Page 96</p>

1 there.
 2 Q For someone like Mr. Lin, and as you've gone
 3 through and shown his -- your monitoring him, can you
 4 reach a conclusion as to how he would have contracted the
 5 Hepatitis B Virus?
 6 A I do not know, okay? But in general, it could
 7 come from, I mean, a parent, okay? Just in general. We
 8 don't know how he contract it and when he contract it.
 9 There's no way for us to know about.
 10 Q You said, I think originally, that Mr. Lin was
 11 not referred to you by any other doctor, correct?
 12 A Uh-huh.
 13 Q He just called up and made an appointment to
 14 see you?
 15 A I guess so. Because in my -- if I have
 16 referral from doctor, I have the referral M.D. on my
 17 initial note.
 18 Q And as I take it from the records you went
 19 over, the very first visit in September of '98, he was
 20 seeing you because, I guess, he had been told he had
 21 elevated liver function tests?
 22 A Yes.
 23 Q And you don't know and there's nothing in your
 24 records as to who reported that to him?
 25 A No idea. It's probably the patient. The only

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1 information in the first visit that I can get was from
 2 the patient.
 3 MR. ROONEY: Thanks, Doctor. Nothing further.
 4 MR. TRIEF: Has this been marked?
 5 MS. SHERER: Yes. That was Exhibit A.
 6 EXAMINATION
 7 Q BY MR. TRIEF: I want to refer to your CV,
 8 which is A. Is the information which is in the CV
 9 accurate?
 10 A Let me see. I haven't been updating my CV,
 11 okay? Well, it's accurate.
 12 Q And it accurately describes your professional
 13 and educational training?
 14 A Yes. Handwritten some changes there on the
 15 second page.
 16 Q Have you testified as an expert witness in any
 17 cases?
 18 A In what, GI?
 19 Q In GI.
 20 A At one time. When I was doing Workers' Comp on
 21 the liver case, that was about ten years ago.
 22 Q Were you qualified each and every time as an
 23 expert?
 24 A I do qualify as an expert.
 25 Q I want to followup on something that you said

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1 to Mr. Rooney concerning Asians. Does Hepatitis B affect
 2 the Asian population in greater numbers than it does the
 3 Caucasian population?
 4 A It affect Asian population in greater number.
 5 Q And could you explain what numbers, the
 6 differences there are?
 7 A Okay. In the past, okay, in the old Asian,
 8 about twenty percent of them have Hepatitis B carrier
 9 back in China or Taiwan, that means they are Hepatitis B
 10 Surface Antigen Positive.
 11 Q Just like Mr. Lin?
 12 A Just like him. But as I mentioned to you when
 13 I talk about carrier, there are different kinds of
 14 carriers.
 15 Q What percentage does the Hepatitis B Virus
 16 affect Caucasians, if you know?
 17 A Very low, okay? Maybe one or two percent, very
 18 low.
 19 Q So it's ten to twenty times higher in the Asian
 20 community?
 21 A It depends. Caucasian is very low. If you're
 22 in California, you have a lot of immigrant, then it's
 23 high.
 24 Q Okay. And is your patient base largely Asian?
 25 A Mostly Asian.

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1 Q Did you consider the treatment for Mr. Lin
 2 successful?
 3 A Yes.
 4 Q Did you advise him that he was successfully
 5 treated?
 6 A Yes.
 7 Q And I heard earlier you said you told him he
 8 was cured?
 9 A That's usually the word I use. I usually say
 10 you are cured, but the virus is still in your body, which
 11 is not active. You don't require any treatment but you
 12 need followup for possible reactivation.
 13 Q And that's what you would have said to him, he
 14 was cured, the virus needed to be followed over your
 15 lifetime?
 16 A True.
 17 Q And did all of the blood tests and lab results
 18 and your observations confirm exactly what you said to
 19 Mr. Lin, that he was successfully treated, cured and
 20 needed followup?
 21 A Yes. The fact that I did not start oral
 22 medication treatment proved that, I believe that what I
 23 did.
 24 Q I think earlier you indicated that you -- well,
 25 let me just say. The stomach cancer has nothing to do

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